

**CITY COUNCIL STUDY SESSION ITEM**

**SUBJECT:**

Discussion of a proposed ordinance authorizing and providing for property acquisition, including through condemnation, of certain property rights required for the 120<sup>th</sup> Avenue NE Improvements Project, Stage 2, NE 8<sup>th</sup> Street to NE 12<sup>th</sup> Street – CIP Plan No. PW-R-164.

**FISCAL IMPACT**

The cost to acquire property rights, through negotiation or condemnation, is included in the land acquisition budget for Stage 2 of the 120<sup>th</sup> Avenue NE Project, CIP Plan No. PW-R-164. The Preliminary 2013-2019 CIP Plan proposes a total project budget of \$31.3 million, which would fund full implementation of the project segment from NE 8<sup>th</sup> to NE 12<sup>th</sup> Streets.

**STAFF CONTACT**

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*Civic Services Department*

Dave Berg, Director, 452-6468  
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**POLICY CONSIDERATION**

**RCW 8.12:**

This Chapter - establishes the authority and procedure for cities to acquire property by condemnation for streets, street improvements, and other public purposes. The statutes provide that when a city seeks to condemn property for a public purpose, the city must first provide notice in the local newspaper as well as by certified mail to the affected property owners. The statutes further provide that the city indicate that compensation for acquisitions be made from applicable city funds, or, if applicable, by special assessment upon the property benefitted by the project.

**City Real Property Policies:**

Property rights necessary for public use are to be acquired through negotiation and voluntary transactions whenever possible and, when it is necessary to exercise condemnation authority, that such property be condemned and taken subject to payment of just compensation in the manner provided by law.

**DIRECTION NEEDED FROM COUNCIL:**

<u>    </u>	Action
<u>  X  </u>	Discussion
<u>  X  </u>	Information

Staff is seeking Council direction to return with a proposed ordinance on December 3, 2012, authorizing and providing for property acquisitions, including through condemnation, of certain property rights required for the 120<sup>th</sup> Avenue NE Improvements Project, Stage 2.

### **BACKGROUND**

Stage 2 of the 120<sup>th</sup> Avenue Improvements project was added to the City's 2009-2015 CIP by Ordinance No. 5936 (February 1, 2010), and is another of the of high-priority transportation investments that make up the Mobility and Infrastructure Initiative. Stage 2 of the 120<sup>th</sup> Avenue NE project is part of the larger NE 4th/120<sup>th</sup> corridor improvements that will provide a continuous five-lane roadway cross-section with bike lanes from NE 4<sup>th</sup> Street to Northup Way. Stage 2 is located between NE 8<sup>th</sup> and NE 12th Streets and was adopted as part of the 2011-2017 CIP, CIP Plan No. PW-R-164. This project includes the realigning and widening of 120<sup>th</sup> Avenue NE to five lanes, with two lanes in each direction, a center turn lane and bike lanes, curb, gutter and sidewalk on both sides of the street with retaining walls, traffic signals, illumination, landscaping, irrigation, water quality and storm detention and other utility infrastructure where needed. Stage 2 is currently at 70 percent design and is expected to start construction in late 2014 depending on property acquisition.

At the November 13 Study Session staff will provide an overview of Stage 2 of the project, including a description of key required property transactions. Staff also will answer Council's questions about this stage of the project. In addition staff will ask for Council direction to return with a proposed ordinance granting Council authority to execute agreements to obtain necessary property interests and pay just compensation in order to keep the project moving forward.

In the proposed ordinance staff also will be requesting condemnation authority to ensure that the required property rights can be obtained in a timely manner. It is nonetheless staff's intention to negotiate with all affected property owners with the aim of arriving at agreed purchases for all needed property. To that end, staff began extensive community outreach and early communications with affected property owners in October 2009 to describe the project and its impacts, and has since that time continued open communication with the owners, which staff intends to continue until the land acquisition and project is complete.

Adoption of the proposed ordinance would empower the City Attorney's Office to commence a condemnation action to keep the project on schedule. Not having a condemnation ordinance in place could adversely impact the project schedule and risk delay to the start of construction. In addition, a delay in acquiring needed property rights would jeopardize the City's receipt of state and federal grant funding totaling more than \$4.1 million for the project's construction phase. The obligation of this funding is conditioned upon timely real property acquisition and federal certification of the City's right-of-way process for the project.

Finally, the condemnation ordinance also enables property owners to sell their property to the City, by agreement, in lieu of condemnation, thus benefitting property owners by exempting their transactions from Real Estate Excise Tax (WAC 458-61A-206 – "Transfers of real property to a governmental entity under an imminent threat of the exercise of eminent domain . . . or as a result of the actual exercise of eminent domain, are not subject to the real estate excise tax.").

Attachment 1 is a table identifying the property rights known to be necessary at this time (excepting a portion of certain office condominium properties, acquisition of which is less time-critical). The property rights being sought are limited to what is reasonably necessary for project construction.

### **ALTERNATIVES**

1. Direct staff to return with a proposed ordinance authorizing and providing for property acquisition, including through condemnation, of certain property rights required for the 120<sup>th</sup> Avenue NE Improvements Project, Stage 2, NE 8<sup>th</sup> Street to NE 12<sup>th</sup> Street – CIP Plan No. PW-R-164.
2. Provide alternative direction to staff.

### **RECOMMENDATION**

Direct staff to return with a proposed ordinance authorizing and providing for acquisition, including through condemnation, of certain property rights required for the 120<sup>th</sup> Avenue NE Improvements Project, Stage 2, NE 8<sup>th</sup> Street to NE 12<sup>th</sup> Street – CIP Plan No. PW-R-164.

### **ATTACHMENTS**

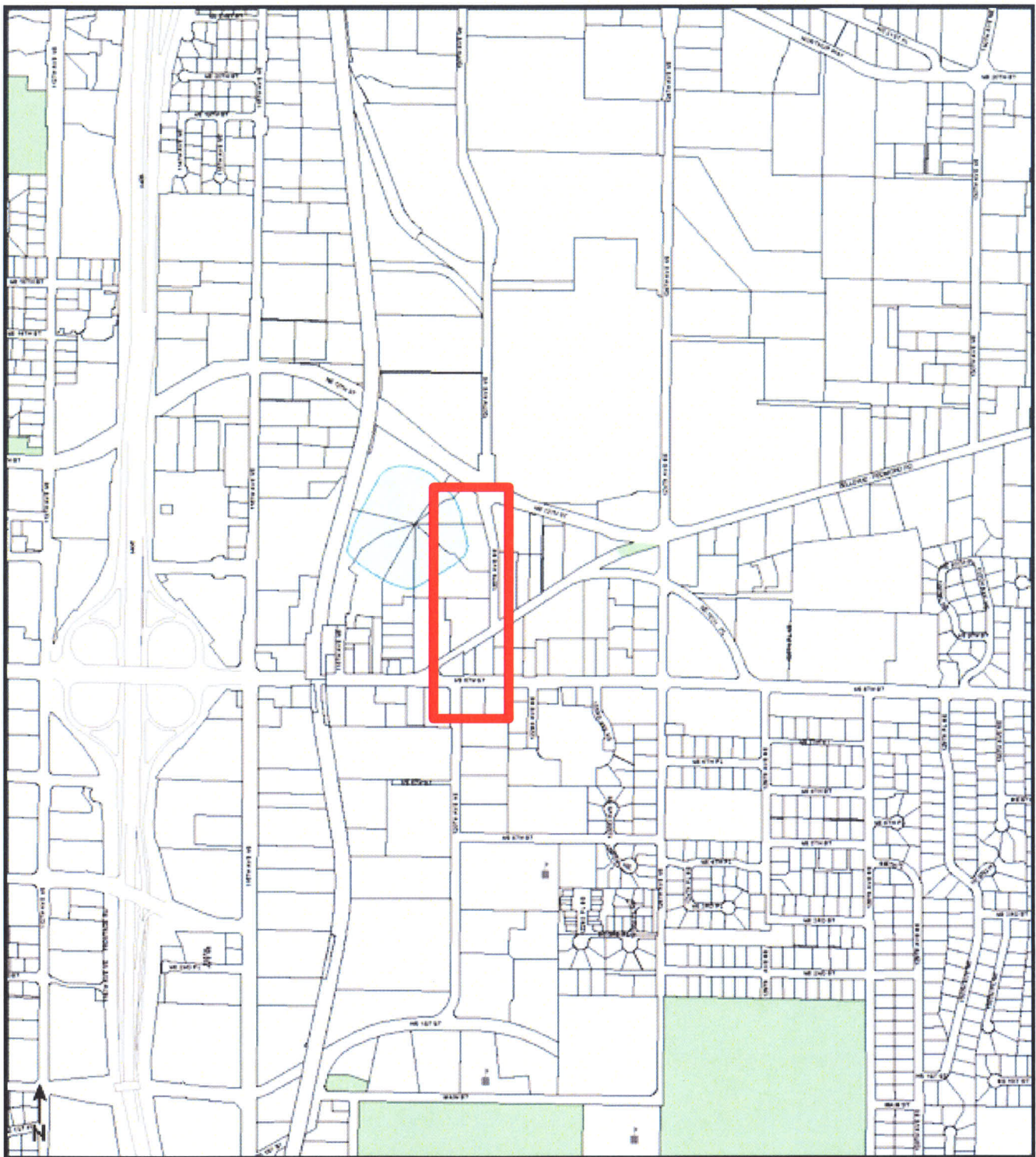
Property Rights Table  
Vicinity/Project Map

# ATTACHMENT 1 – REQUIRED PROPERTY RIGHTS

120<sup>th</sup> Avenue NE – Stage 2; NE 8<sup>th</sup> Street to NE 12<sup>th</sup> Street – CIP PW-R-164

COB Parcel #	Property Address / Taxpayer	KC Tax ID # / Total square ft.	Property Type Required	Square Footage
6037A	11919 NE 8 <sup>th</sup> St. Bellevue Properties	332505-9009 42,299	Fee simple Sidewalk/Util. Easement Slope Easement	2,329 2,982 230
6045A	636-120 <sup>th</sup> Ave. NE Park 120 Investments	332505-9009 219,267	Fee simple Sidewalk/Util. Easement Slope Easement	98 497 1,209
6046	12001 NE 8 <sup>th</sup> St. PacWest Energy	332505-9179 30,000	Fee simple Sidewalk/Util. Easement Wall Easement Slope Easement Temporary Const. Esmt.	3,032 140 1,937 97 739
6047	11866 NE 8 <sup>th</sup> St. Barrier Properties	109910-0425 16,158	Fee simple Sidewalk/Util. Easement Slope Easement	7,809 2,652 689
6048	11855 NE 8 <sup>th</sup> St. Bakker's Fine Dry Cleaning, Inc.	109910-0420 109910-0419 36,207	Fee simple Sidewalk/Util. Easement Wall Easement Slope Easement	9,544 3,897 1,280 896
6050	12000 NE Bel-Red Rd. Barrier Properties	109910-0167 45,962	Fee Simple Sidewalk/Util. Easement Wall Easement Slope Easement Temporary Const. Esmt.	15,875 2,949 2,998 2,603 3,164
6051	12001 NE 12 <sup>th</sup> Street Brierwood CTR, LLC	109910-0165 61,869	Fee Simple Sidewalk/Util. Easement Wall Easement Temporary Const. Esmt.	11,370 745 2,533 9,500
6054	40 Lake Bellevue Dr. Windsor Park Estates, Bellevue, LLC	698653-0010 138,205	Fee Simple Ingress/Egress Easement Wall Easement Slope Easement Temporary Const. Esmt.	18 3,890 790 263 9,928
6055	11900 NE 8 <sup>th</sup> St. Barrier Motors, Inc.	109910-0415 71,705	Fee simple Ingress/egress Sidewalk/Util. Easement Wall Easement Slope Easement Temporary Const. Esmt.	7,733 23 668 2,465 898 1,561

<b>COB Parcel #</b>	<b>Property Address / Taxpayer</b>	<b>KC Tax ID # / Total square ft.</b>	<b>Property Type Required</b>	<b>Square Footage</b>
6221	12000 NE 8 <sup>th</sup> St. Longwell Office, LLC	109910-0140 33,436	Sidewalk/Util. Easement Slope Easement Temporary Const. Esmt.	710 359 500
6562	12022 NE 8 <sup>th</sup> St. Virginia Garman	109910-0406 14,958	Fee simple Sidewalk/Util. Easement	35 294
6563	12150 NE Bel-Red Rd. Barrier, Jimmy R.	109910-0185 109910-0171 59,109	Slope Easement Temporary Const. Esmt.	368 913
6564	12020 NE Bel-Red Rd. Brierwood Ctr., LLC	109910-0168 21,622	Fee Simple Sidewalk/Util. Easement Slope Easement Temporary Const. Esmt.	465 566 814 1,643
6565	12001 NE 12 <sup>th</sup> St. Brierwood Ctr., LLC	109910-0170 26,546	Fee Simple Sidewalk/Util. Easement Wall Easement Slope Easement Temporary Const. Esmt.	3,292 568 696 313 1,173
6566	11850 NE Bel-Red Rd. Barrier, Jimmy R.	109910-0430 92,732	Sidewalk/Util. Easement Slope Easement Temporary Const. Esmt.	52 23 4,901



**City of Bellevue**  
 Information Technology  
 Geographic Information Services  
 November 05, 2012

### Vicinity Map 120th Stage 2 Project Area

This map is derived from the Bellevue  
 Geographic Information System and  
 designed for City staff use.  
 It is not guaranteed accurate.

If you have specific questions regarding  
 this map, contact the department shown.

 Park  
 School



VICINITY MAP